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In re Application of
JOSEPH P. FANNON et al.
Application No. 10/674,210
Filed: September 29, 2003

**DECISION ON PETITION
TO WITHDRAW
ABANDONMENT**

For: CABLE END FITTING RETAINER ASSEMBLY

This is a decision on applicant's Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 filed in the United States Patent and Trademark Office on September 1, 2005.

The petition is **DISMISSED**.

A review of the file record indicates that the application was held abandoned for failure to timely file a response to the Office action mailed January 26, 2005, which set a one month shortened statutory period. No response was received and a Notice of Abandonment was sent on August 22, 2005.

Petitioner contends that a response was filed on February 3, 2005. In support thereof, petitioner submits, a copy of a response bearing a Certificate of Transmission signed by Vicki L. Gilbert and dated February 3, 2005.

Petitioner's evidence of a timely filing based on a Certificate of Transmission is considered to be insufficient. In this regard, any petition to withdraw the holding of abandonment based upon a Certificate of Transmission must include the following requirements:

- (1) A copy of the original response bearing a signed Certificate of Transmission which includes the date of signing; and
- (2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the original response on the date

indicated on the Certificate of Transmission (see 37 CFR 1.8 and MPEP 512), by the person who signed the certificate.

While meeting requirement (1) above the petition fails, under requirement (2), to also include a statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of sending the original response by facsimile transmission on the date indicated on the certificate, by the person who signed the certificate, in this instance Vicki L. Gilbert. The statement made by Laura C. Hargitt attesting to the timely filing has been noted, however, absent any extenuating circumstances, this statement must be made by the person who signed the certificate.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.81."



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KJD/bkg: 10/21/2005